

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2019-078-00262C

Parcel No. 7444 11 151 007

Legacy CB, LLC,

Appellant,

vs.

Pottawattamie County Board of Review,

Appellee.

Introduction

The appeal came on for written consideration before the Property Assessment Appeal Board (PAAB) on January 3, 2020. Attorney Cameron Wright represents Legacy CB LLC and asked that the appeal proceed without a hearing. Assistant County Attorney Leanne Gifford represents the Pottawattamie County Board of Review.

Legacy CB LLC (Legacy) owns a commercial property legally known as The Marketplace Lot 9, in Council Bluffs, Iowa. Its January 1, 2019, assessment was set at \$872,700, allocated as \$783,800 in land value and \$88,900 in building value. (Ex. A).

Legacy petitioned the Board of Review contending the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(2) (2019). It also wrote in the section of the form reserved for an error claim that "We have not sold any pads at Council Bluffs Marketplace since July of 2016 and price was under \$500K." The Board of Review denied the petition.

Legacy then appealed to PAAB. Legacy marked the area of the form reserved for a claim indicating its assessment is not equitable as compared with the assessments of other like property; that it was assessed for more than the value authorized by law; and that there was an error in the assessment. Iowa Code§ 441.37(1)(a)(1, 2 & 4) (2019). But its plain statement on appeal, as well as professional comments submitted by its

attorney indicate the basis of its claim that its property is assessed for more than the value authorized by law. § 441.37(1)(a)(2). Accordingly, this is the only claim PAAB will consider.

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code R. 701-126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

Findings of Fact

The subject property is a 4.32-acre site improved with 20,000 square feet of concrete road and some lighting. (Ex. A). Legacy has owned the property since 2013.

Legacy did not submit any evidence but asserts the Board of Review's appraisal, completed by Patrick Schulte, Commercial Appraisers of Iowa, Inc., West Des Moines, supports its assertion the subject property is over assessed. (Exs. 1 & D).

The Board of Review submitted Schulte's appraisal completed for ad valorem purposes with an effective date of January 1, 2019. (Ex. D). Schulte developed a land sales comparison approach to value the site and the cost approach to value the improvements (pavement and lighting).

Schulte described the subject site as relatively level, with above street grade. It has southerly frontage on a two-way, two-lane paved street with turn lanes, and westerly frontage along Marketplace Drive, which is also a two-way, two-lane street. (Ex. 1, p. 23). He explained 65,305 square feet of the subject site is a water detention area to serve the subject site and other lots in the Marketplace plat. Although the subject site size is 188,179 square feet, Schulte analyzed its market value based first on the useable area of 122,874¹ square feet. (Ex. 1, p. 23-25 & 28-29).

Schulte's land sales comparison included seven vacant site sales from Council Bluffs, which are summarized in the following table. (Ex. 1, p. 28).

Comparable Sale	Sale Date	Sale Price	Site Size (SF)	Sale Price/SF	Adjusted SP/SF
Subject - Lot 9 Marketplace			122,874		
1 - Lot 5 Marketplace	Apr-11	\$885,000	74,052	\$11.95	\$9.14
2 - Lot 3 Marketplace replat 2	Jul-16	\$485,000	43,124	\$11.25	\$9.08
3 - 3600 S Expressway	Apr-17	\$1,300,000	210,306	\$6.18	\$6.90
4 - 3816 Metro Dr	Mar-15	\$1,000,000	248,727	\$4.02	\$5.32
5 - 2281 S 35th St	Oct-16	\$468,380	81,457	\$5.75	\$7.62
6 - 4201 Rivers Edge	Nov-17	\$174,594	50,094	\$3.49	\$6.53
7 - 3331 Marketplace Dr	May-12	\$321,544	39,600	\$8.12	\$7.21

Schulte adjusted all of the sales downward 2% per year for market conditions (date of sale) due to "relatively slow sales activity in the last 4 years at the Marketplace immediate neighborhood." (Ex. 1, p. 28-29). He also adjusted the sales for other factors such as location, site size, site shape, and zoning/likely use. His adjusted values range from \$5.32 to \$9.14. From this range, Schulte reconciled to a value of \$6.50 per square foot of useable land area; or a land value – as if vacant of \$799,000. (Ex. D, p. 30-31).

Schulte estimated a cost new of \$46,650 for the subject's site improvements, which he then depreciated by 50% to arrive at a contributory value of \$23,325. (Ex. D, p. 30). His total conclusion of value is \$822,000. (Ex. D, p. 30).

¹ 188,179 square feet of total site size - 65,305 square feet of water detention area = 122,874 square feet of useable building area.

Analysis & Conclusions of Law

Legacy contends the subject property is over assessed as provided under Iowa Code section 441.37(1)(a)(2).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted). Sales prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. § 441.21(1)(b). Sale prices of property in abnormal transactions not reflecting market value shall not be taken into account or shall be adjusted to account for market distortion.

Legacy relies on the Schulte appraisal completed for the Board of Review in support of its claim. The appraisal follows the statutory scheme by determining the property's land value using comparable sales as the property is nearly a vacant site. Therefore, we find Schulte's appraisal is the most persuasive evidence in the record of the subjects' January 1, 2019 actual value.

Viewing the record as a whole, we find the subject property is over assessed.

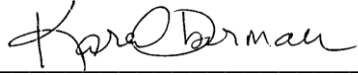
Order

PAAB HEREBY MODIFIES the Pottawattamie County Board of Review's action and sets the January 1, 2019 assessed value to \$822,000.

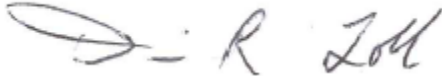
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2019).

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

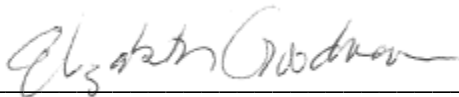
Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.



Karen Oberman, Board Member



Dennis Loll, Board Member



Elizabeth Goodman, Board Member

Copies to:

Cameron Wright for Legacy CB LLC by eFile

Pottawattamie County Board of Review by eFile

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